

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: May 19, 2004

Division: Public Works

Bulk Item: Yes X No

Department: Facilities Maintenance *J.K.*

AGENDA ITEM WORDING: Approval to renew lease agreement for an additional 1-year term with Tropical Sailboats, Inc. to operate and maintain a concession for beach chairs and umbrella rentals at Higgs Beach at the same rate of Two-Hundred and Fifty-Five Dollars (\$255.00) per month, or Ten Percent (10%), whichever is greater.

ITEM BACKGROUND: On July 14, 2004, the above-referenced lease will expire. Mr. Russ Gregory, President of Tropical Sailboats, Inc. is exercising his option to renew the lease for the second year of TWO (2) ONE-YEAR PERIODS.

PREVIOUS RELEVANT BOCC ACTION: At their June 19, 2002, meeting, the Board granted approval to enter into a new lease with Tropical Sailboats, Inc. to operate and maintain a concession for beach chairs and umbrella rentals for \$255.00 per month or 10%, whichever is greater. On April 16, 2003, the Board approved to renew the annual rental agreement for the first of two (2) one-year periods. On November 19, 2003, the Board approved Contract Amendment to correct the term of the lease agreement.

CONTRACT/AGREEMENT CHANGES: New lease effective July 15, 2004, and expiring on July 14, 2005.

STAFF RECOMMENDATIONS: Approval as stated above.

TOTAL COST: N/A

BUDGETED: Yes N/A No

COST TO COUNTY: N/A

SOURCE OF FUNDS: Revenue

REVENUE PRODUCING: Yes X No **AMOUNT PER MONTH** \$255 or 10% whichever is greater **Year**

APPROVED BY: County Atty OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:

[Signature]
Dent Pierce, Director Public Works

DOCUMENTATION: Included X To Follow Not Required

DISPOSITION:

AGENDA ITEM # D-19

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: Tropical Sailboats, Inc. Contract # _____
 Effective Date: July 15, 2004
 Expiration Date: July 14, 2005

Contract Purpose/Description:

Renewal of lease agreement to operate and maintain a concession on Higgs Beach for the purpose of renting beach chairs and umbrellas to the public.

Contract Manager: Miguel Carbonell 4385 Facilities Maint./#4
 (Name) (Ext.) (Department/Stop #)

for BOCC meeting on 05/19/04 Agenda Deadline: 05/04/04

CONTRACT COSTS

Total Dollar Value of Contract: \$ Revenue-producing Current Year Portion: \$ N/A

Budgeted? Yes ☐ No ☐ Account Codes: _____
 Grant: \$ _____
 County Match: \$ _____

ADDITIONAL COSTS

Estimated Ongoing Costs: \$ _____/yr For: _____
 (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	<u>5/3/04</u>	Yes <input type="checkbox"/> No <input type="checkbox"/>	<u>[Signature]</u> for DD	<u>5/4/04</u>
Risk Management	<u>4/14/04</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>Bill [Signature]</u>	<u>4/14/04</u>
O.M.B./Purchasing	<u>04/11/04</u>	Yes <input type="checkbox"/> No <input type="checkbox"/>	<u>[Signature]</u>	<u>4/12/04</u>
County Attorney	<u>4/8/04</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>4/12/04</u>

Comments: _____

RENEWAL AGREEMENT

Tropical Sailboats, Inc.
Beach chairs and umbrellas rental
Higgs Beach

This Renewal Agreement is made and entered into this May 19, 2004, between the COUNTY OF MONROE and Tropical Sailboats, Inc. in order to renew the Lease Agreement between the parties dated June 19, 2002, and as renewed on April 16, 2003, and as amended on November 19, 2003, copies which are incorporated hereto for reference, as follows:

1. In accordance with Article 2. of the June 19, 2002, original Lease Agreement, the Lessee exercises the option to renew the Lease for the second year of TWO (2) ONE-YEAR PERIODS.
2. The term of the renewed Lease Agreement will commence on July 15, 2004, and terminate on July 14, 2005.
3. Rental remains during the term of this renewed Lease Agreement the sum of two hundred fifty five (\$255.00) dollars per month or ten percent (10%) of the total monthly gross, whichever is greater, payable on or before the 15th. day of each month following the month for which payment is due.

In all other respects, the original agreement between the parties dated June 19, 2002, and as renewed on April 16, 2003 and as amended on November 19, 2003, remains in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal the day and year first written above.

(Seal)
Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____

Witness

Tropical Sailboats, Inc..

Witness

By: _____

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM


SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY

Date

5/12/04

CONTRACT AMENDMENT

Tropical Sailboats, Inc
Beach Chairs and Umbrellas Rentals
Higgs Beach

This Contract Amendment is made and entered into this 19th. of November, 2003, between the COUNTY OF MONROE and Tropical Sailboats, Inc. in order to amend the agreement between the parties dated June 19, 2002, and as per Renewal Agreement dated April 16, 2003, copies incorporated hereto for reference, as follows:

1. To amend Article 3. Of the Renewal Agreement to: The term of the renewed Lease Agreement will commence on July 15, 2003 and terminate on July 14, 2004.

In all other respects, the original agreement between the parties dated June 19, 2002, and as per Renewal Agreement dated April 16, 2003, remains in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal the day and year first written above.

(Seal)

Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By: Sabell C. DeSantis
Deputy Clerk

By: Heidi M. Spelman

[Signature]
Witness

Tropical Sailboats, Inc..

[Signature]
Witness

By: DW Gregory

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

[Signature]
SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date: 10/21/03

RENEWAL AGREEMENT

Tropical Sailboats, Inc.
Beach chairs and umbrellas rental
Higgs Beach

This Renewal Agreement is made and entered into this April 16, 2003, between the COUNTY OF MONROE and Tropical Sailboats, Inc. in order to renew the Lease Agreement between the parties dated June 19, 2002, copies incorporated hereto for reference, as follows:

1. To amend Article 2. to expire July 14, 2003.
2. In accordance with Article 2. of the June 19, 2002 original Lease Agreement, the Lessee exercises the option to renew for the first of two (2) one-year periods.
3. The term of the renewed Lease Agreement will commence on July 1, 2003 and terminate on June 30, 2004.
4. Rental remains during the term of this renewed Lease Agreement the sum of two hundred fifty five (\$255.00) dollars per month or ten percent (10%) of the total monthly gross, whichever is greater, payable on or before the 15th. day of each month following the month for which payment is due.

In all other respects, the original agreement between the parties dated June 19, 2002, remains in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal the day and year first written above.

(Seal)

Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By:

Isabel C. De Santis
Deputy Clerk

By:

Heidi M. Spahr

Leigh Carman
Leigh Carman
Witness

Tropical Sailboats, Inc..

Coley Sawyer
Coley Sawyer
Witness

By:

Dee Megarty

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY.

Suzanne A. Hutton
SUZANNE A. HUTTON
DATE 3/26/03

SECTION THREE

LEASE AGREEMENT

THIS LEASE is made and entered into on the 19th day of June, 2002, by and between MONROE COUNTY, a political subdivision of the State of Florida hereinafter referred to as "Lessor", and Tropical Sailboats, Inc., hereinafter referred to as "Lessee", whose address is 1414 Von Phister St., Key West, FL. 33040, which expression shall include the heirs, executors, administrators and assigns of the Lessee when the context so admits.

WHEREAS, the Lessor desires to grant to Lessee a non-exclusive right to maintain and operate a concession on the beach for the purpose of renting beach chairs and umbrellas to the public; and

WHEREAS, the Lessor and Lessee desire, in connection with said operations, to provide for the leasing by Lessor to Lessee of certain space at Clarence S. Higgs Memorial Beach;

NOW, THEREFORE, in consideration of the mutual covenants, promises and premises herein contained, the parties hereto agree as follows:

1. **PREMISES:** The Lessor of these premises leases unto the Lessee a portion of Clarence S. Higgs Memorial Beach, Key West, Florida as evidenced by area marked "Premises" on the attached drawing marked Exhibit "A", which is attached hereto and made a part hereof.

2. **TERM:** This agreement is for a renewal term of ONE (1) year, commencing July 15, 2002 and expiring on June 14, 2003, unless earlier terminated pursuant to provisions of this agreement or operation of law. Additionally, the Lessee may exercise an option to renew this lease for TWO (2) ADDITIONAL ONE-YEAR

PERIODS, CONTINGENT UPON APPROVAL and with written consent of the Board of County Commissioners, by giving Lessor written notice of their intention to exercise said option within sixty (60) days previous to the expiration of the current Lease Agreement.

3. **RENTAL AND FEES:** In return for the privilege of using the designated portion of Clarence S. Higgs Memorial Beach, Lessee will make monthly payments of rent to Lessor equal to 10% of its total gross proceeds or \$255.00 per month, whichever is greater. Payment shall be made on or before the fifteenth day of each month following the month for which payment is due. Payments should be directed to the Monroe County Finance Department at P.O. Box 1980, Key West, FL 33040

4. **ACCOUNTING PROCEDURES:** Lessee shall follow Generally Accepted Accounting procedures in accounting for the revenues and expenses of the concession. Lessee agrees that it will make available to Lessor, a full complete book of accounts and other records pertaining to the sales and expenses on the leased space. The Lessor, acting through its Finance Director or other authorized representative, shall upon reasonable notice, have the right to inspect and audit said records. Said records shall be retained by Lessee for at least three years following termination of this agreement.

5. **OTHER DEVELOPMENT:** Lessor reserves the right to further develop or improve Clarence S. Higgs Memorial Beach as it sees fit, regardless of the desires or views of the Lessee.

6. **LESSEE'S OBLIGATION:** Lessee covenants and agrees:

- (a) To pay the Lessor the rent at the times and in the manner provided for by this lease.
- (b) To continue to maintain current City and County Occupational Licenses, as required, during the period of the lease.
- (c) That Lessee's concession will not interfere with beach cleaning.
- (d) Lessee will conduct its operations in a business like manner at all times, and will keep the leased premises free of trash and will pick up, on a daily basis, the trash and debris left in the area of the concession by the public.
- (e) All rental equipment will be maintained in good working condition.
- (f) To make no improper or unlawful or offensive use of said premises, and to permit the Lessor or its agents to inspect the

(2) Additional Insured - Monroe County Board of County Commissioners is to specifically be included as an additional insured and Certificate Holder.

9. **NON-DISCRIMINATION:** Lessee shall furnish all services authorized under this agreement on a fair, equal and non-discriminatory basis to all persons or users thereof, charging fair, reasonable, and non-discriminatory prices for all items which it is permitted to sell or render under this agreement.

10. **TERMINATION:** Either party may terminate this lease, with or without cause, upon giving the other party written notice of termination at least sixty (60) days prior to the effective date of termination.

11. **ASSIGNMENT AND SUBLETTING:** Lessee shall not assign or sublet this agreement without prior written consent of Lessor, nor permit any transfer by operation of law of Lessee's interest. All terms of this Agreement shall bind any assignees or subleases.

12. **OTHER USE:** Lessee shall not use or permit the use of the demised premises or any part thereof for any purpose or use other than as authorized by this agreement.

13. **NOTICES:** Any notice of communication from either party to the other pursuant to this agreement is sufficiently given or communicated if sent by Certified Mail, with proper postage fees prepaid, addressed to the party for whom intended, at the following address:

For Lessor: Monroe County Public Works Division
Facilities Maintenance Department
3583 South Roosevelt Boulevard
Key West, Florida 33040

Lessee: Tropical Sailboats, Inc.
1414 Von Phister Street
Key West, FL. 33040

or to such other address as the party being given such notice shall from time to time designate to the other by notice given in accordance herewith.

leased premises at all reasonable times for the purpose of viewing the condition thereof.

7. **LESSOR'S OBLIGATIONS:** Lessor covenants and agrees:

(a) Lessee shall be permitted to use a portable rental stand or maintain a booth 6x8 feet for operation of the concession only if Lessee obtains, prior to placement or erection, written approval from Lessor's Director of Public Works for the structure to be so placed or erected. Lessor's Director shall consider nearby structures, beach access, public safety, and usefulness for concession purposes in determining whether to permit the structure to be placed or erected on the premises. Upon termination of this lease, or an extension hereof, Lessee shall remove said structure and return the premises to the condition at the beginning of the lease term. Should Lessee fail to remove the structure within thirty (30) days of lease termination, Lessor shall have the right to remove said structure and charge Lessee for the costs of removal, or to retain said structure for its own use.

(b) Lessor is the lawful owner of the property demised hereby, that it has lawful possession thereof, and has good and lawful authority to execute this lease; and

(c) Throughout the term hereof Lessee may have, hold and enjoy peaceful and uninterrupted possession of the premises and rights herein leased and granted, subject to performance by Lessor of its obligations herein.

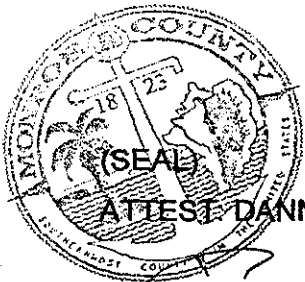
8. **INDEMNIFICATION/HOLD HARMLESS/INSURANCE:**

(a) The Lessee agrees to indemnify and hold the Lessor free and harmless from any and all claims, suits, loss or damage, or injury to persons or property (including property owned by Lessor) and any other losses, damages, and expenses, including attorney's fees, which arise out of, in connection with, or by reason of the Lessee utilizing the property governed by the lease agreement. The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement.

(b) The Lessee shall procure and maintain Commercial General Liability-Coverage must include:

- (1) \$500,000 combined single limit

IN WITNESS WHEREOF, the parties have caused these presents to be executed by their respective officer or representative thereunto duly authorized, the day and year first above written



ATTEST: DANNY L. KOLHAGE, CLERK

By: _____

Deputy Clerk

MONROE COUNTY BOARD OF
COUNTY COMMISSIONERS

By: _____

Mayor

Witness

Witness

Russell W. Gregory

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY: _____
SUZANNE A. HUTTON
DATE: 6/6/02